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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2010-280**

12 **JUDY ANN SHAFFER**
13 **4563 Hessel Road**
Sebastopol, CA 95472

ACCUSATION

14 **Registered Nurse License No. RN 391142**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
21 of Consumer Affairs.

22 2. On or about August 31, 1985, the Board of Registered Nursing issued Registered
23 Nurse License Number RN 391142 to Judy Ann Shaffer (Respondent). The Registered Nurse
24 License was in full force and effect at all times relevant to the charges brought herein and will
25 expire on February 28, 2011, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

"(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions."

...

6. Section 2762 of the Code states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to

1 himself or herself, any other person, or the public or to the extent that such use impairs his or her
2 ability to conduct with safety to the public the practice authorized by his or her license.

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4 "(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any
5 hospital, patient, or other record pertaining to the substances described in subdivision (a) of this
6 section."

7 7. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
8 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
9 licensee or to render a decision imposing discipline on the license.

10 8. Health and Safety Code section 11173(a) states, in pertinent part, that no person shall
11 obtain or attempt to obtain controlled substances, or procure or attempt to procure the
12 administration of or prescription for controlled substances by fraud, deceit, misrepresentation or
13 subterfuge.

14 9. Section 118, subdivision (b), of the Code provides that the expiration of a license
15 shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period
16 within which the license may be renewed, restored, reissued or reinstated.

17 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
18 administrative law judge to direct a licensee found to have committed a violation or violations of
19 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
20 enforcement of the case.

21 22 DRUGS

23 11. Ativan is a brand of lorazepam, a Schedule IV controlled substance as designated by
24 Health and Safety Code section 11057(d)(13) and is a dangerous drug per Code section 4022. It
25 is used for anxiety.

26 12. Demerol is a brand of meperidine hydrochloride, a Schedule II controlled substance
27 as designated by Health and Safety Code section 11055(c)(17) and is a dangerous drug per Code
28 section 4022. It is used for moderate to severe pain.

13. Dilaudid is a brand of hydromorphone hydrochloride, a Schedule II controlled substance as designated by Health and Safety Code section 11055(b) and a dangerous drug per Code section 4022. It is used for pain relief.

14. Fentanyl is a brand of duragesic, a Schedule II controlled substance as designated by Health and Safety Code section 11055(c)(8), and is a dangerous drug per Code section 4022. It is used for persistent moderate to severe chronic pain.

15. Morphine is a Schedule II controlled substance as designated by Health and Safety Code section 11055(b)(1)(M), and a dangerous drug as designated by Code section 4022. It is used to treat moderate to severe pain.

16. Versed is a brand of midazolam, a Schedule II controlled substance as designated by Health and Safety Code section 11057(d)(21) and a dangerous drug per Code section 4022. It is used to produce sleepiness or drowsiness and to relieve anxiety before surgery or other procedures.

17. Vicodin is a brand of hydrocodone bitartrate, a Schedule II controlled substance as designated by Health and Safety Code section 11055(b)(1)(j) and is a dangerous drug per Code section 4022. It is used to treat moderate pain.

FIRST CAUSE FOR DISCIPLINE

(Diversion, Possession and Self-Administration of Controlled Substances)

18. Respondent is subject to disciplinary action under Code section 2761(a) on the grounds of unprofessional conduct, as defined by Code section 2762(a), in that while on duty as a registered nurse at Kaiser Permanente, Santa Rosa, California, Respondent did the following:

19. Between June 11, 2005, and July 29, 2005, Respondent obtained Dilaudid, Morphine, Ativan, Demerol, and/or Vicodin, controlled substances, by fraud, deceit, misrepresentation or subterfuge in violation of Health and Safety Code section 11173(a) for her own personal use by withdrawing various quantities of those medications from the hospital's computerized medication cart (Pyxis) when there was no physician's order for the medication, or in excess of physician's orders without documenting wastage.

1 20. Respondent is further subject to disciplinary action under Code section 2761(a) on the
2 grounds of unprofessional conduct, as defined by Code section 2762(a), in that while on duty as a
3 registered nurse at Kaiser Permanente, San Rafael, California, Respondent did the following:

4 21. On September 21, 2005, and September 22, 2005, Respondent obtained Fentanyl
5 and/or Versed, controlled substances, by fraud, deceit, misrepresentation or subterfuge in
6 violation of Health and Safety Code section 11173(a) for her own personal use by withdrawing
7 various quantities of those medications from the hospital's computerized medication cart (Pyxis)
8 in excess of physician's orders without documenting wastage.

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10 **SECOND CAUSE FOR DISCIPLINE**

11 (Use of Controlled Substances to an Extent or in a Manner Dangerous or Injurious to
12 Licensee and/or Others)

13 22. Respondent is subject to disciplinary action under Code section 2761(a) on the
14 grounds of unprofessional conduct, as defined by Code section 2762(b), in that between June 11,
15 2005, and July 29, 2005, at Kaiser Permanente Santa Rosa, California, Respondent used Dilaudid,
16 Morphine, Ativan, Demerol, and/or Vicodin, controlled substances, to an extent or in a manner
17 dangerous or injurious to herself and/or others.

18 23. Respondent is further subject to disciplinary action under Code section 2761(a) on the
19 grounds of unprofessional conduct, as defined by Code section 2762(b), in that on September 21,
20 2005 and September 22, 2005, at Kaiser Permanente San Rafael, California, Respondent used
21 Fentanyl and/or Versed, controlled substances, to an extent or in a manner dangerous or injurious
22 to herself and/or others.

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24 **THIRD CAUSE FOR DISCIPLINE**

25 (False Entries in Hospital, Patient or Other Records – Kaiser Santa Rosa)

26 24. Respondent is subject to disciplinary action under Code section 2761(a) on the
27 grounds of unprofessional conduct, as defined by Code section 2762(e), in that while on duty as a
28 registered nurse at Kaiser Permanente, Santa Rosa, California, Respondent falsified, made grossly

1 incorrect, grossly inconsistent, or unintelligible entries in hospital and patient records in the
2 following respects:

3 PATIENT A:

4 25. On June 11, 2005 at 2000 hours, Respondent removed 10 mg of Morphine from the
5 Pyxis. At 2252 hours, she removed an additional 10 mg of Morphine from the Pyxis.
6 Respondent documented having administered a total of 12 mg; however, there was no
7 documentation of the remaining 8 mg being administered, nor was there documentation of
8 wastage.

9 PATIENT B:

10 26. On June 16, 2005 at 1800 hours, Respondent removed 10 mg of Morphine from the
11 Pyxis. Respondent documented having administered 3 mg of the Morphine; however, there was
12 no documentation of the remaining 7 mg being administered, nor was there documentation of
13 wastage.

14 27. On June 17, 2005 at 1530 hours, Respondent removed 10 mg of Morphine from the
15 Pyxis. Respondent documented having administered 4 mg of the Morphine; however, there was
16 no documentation of the remaining 6 mg being administered, nor was there documentation of
17 wastage.

18 28. On June 20, 2005 at 1852 hours, Respondent removed 2 mg of Dilaudid from the
19 Pyxis. Respondent documented having administered 1 mg of the Dilaudid; however, there was
20 no documentation of the remaining 1 mg being administered, nor was there documentation of
21 wastage.

22 29. On June 22, 2005 at 1802 hours, Respondent removed 10 mg of Morphine from the
23 Pyxis. Respondent documented having administered 3 mg of the Morphine; however, there was
24 no documentation of the remaining 7 mg being administered, nor was there documentation of
25 wastage.

26 30. On June 22, 2005 at 1914 and 2300 hours, Respondent removed a total of 4 mg of
27 Ativan from the Pyxis. Respondent documented having administered 2 mg of the Ativan, and
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1 having wasted 1 mg; however, there was no documentation of the remaining 1 mg being
2 administered, nor was there documentation of wastage.

3 31. On June 22, 2005 at 1824 hours, Respondent removed 50 mg of Demerol from the
4 Pyxis without a physician's order. There was no documentation of the medication being
5 administered, nor was there documentation of wastage.

6 32. On June 22, 2005 at 2347 hours, Respondent removed 10 mg of Morphine from the
7 Pyxis. The patient refused the medication, and there was no documentation of wastage.

8 PATIENT C:

9 33. On June 23, 2005 at 0011 hours, Respondent removed 10 mg of Morphine from the
10 Pyxis. Respondent documented having administered 4 mg of the Morphine; however, there was
11 no documentation of the remaining 6 mg being administered, nor was there documentation of
12 wastage.

13 34. On June 23, 2005 at 0028 hours, Respondent removed Vicodin ERP from the Pyxis.
14 There was no physician's order for Vicodin, nor was there documentation of wastage.

15 PATIENT D:

16 35. On June 30, 2005 at 2126 hours, Respondent removed 10 mg of Morphine from the
17 Pyxis. Respondent documented having administered 4 mg of the Morphine; however, there was
18 no documentation of the remaining 6 mg being administered, nor was there documentation of
19 wastage.

20 36. On June 30, 2005 at 1817 hours, Respondent removed 4 mg (two vials) of Dilaudid
21 from the Pyxis. Respondent documented having administered 2 mg of the Dilaudid; however,
22 there was no documentation of the remaining 2 mg being administered, nor was there
23 documentation of wastage.

24 37. On June 30, 2005 at 1826 hours, Respondent removed 4 mg (two vials) of Dilaudid
25 from the Pyxis. Respondent documented having administered 2 mg of the Dilaudid; however,
26 there was no documentation of the remaining 2 mg being administered, nor was there
27 documentation of wastage.

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1 38. On July 3, 2005 at 1657 hours, Respondent removed 10 mg of Morphine from the
2 Pyxis. Respondent documented having administered 4 mg of the Morphine; however, there was
3 no documentation of the remaining 6 mg being administered, nor was there documentation of
4 wastage.

5 39. On July 5, 2005 at 1109 hours, Respondent removed 10 mg of Morphine from the
6 Pyxis. Respondent documented having administered 4 mg of the Morphine; however, there was
7 no documentation of the remaining 6 mg being administered, nor was there documentation of
8 wastage.

9 40. On July 13, 2005 at 0635 hours, Respondent removed 10 mg of Morphine from the
10 Pyxis. Respondent documented having administered 12 mg of the Morphine, and wasting 2 mg.
11 Accordingly, Respondent documented giving more medication than she had withdrawn.

12 41. On July 13, 2005 at 2217 hours, Respondent removed 10 mg of Morphine from the
13 Pyxis. Respondent documented having administered 2 mg of the Morphine, and documented
14 having wasted 8 mg of the Morphine; however, Respondent waited two hours before wasting the
15 8 mg of remaining Morphine.

16 42. On July 14, 2005 at 1710 hours, Respondent removed 10 mg of Morphine from the
17 Pyxis. However, there was no documentation of administration or wastage of the 10 mg of
18 Morphine.

19 43. On July 14, 2005 at 1834 hours, Respondent removed 10 mg of Morphine from the
20 Pyxis. Respondent documented having administered 4 mg of the Morphine; however, there was
21 no documentation of the remaining 6 mg being administered, nor was there documentation of
22 wastage.

23 44. On July 14, 2005 at 1938 hours, Respondent removed 2 mg of Ativan from the Pyxis.
24 Respondent documented having administered 1 mg of the Ativan; however, there was no
25 documentation of the remaining 1 mg being administered, nor was there documentation of
26 wastage.

27 45. On July 14, 2005 at 1652, 1803, and 2014 hours, Respondent removed a total of 30
28 mg of Morphine from the Pyxis. Respondent documented having administered 16 mg of the

1 Morphine; however, there was no documentation of the remaining 14 mg being administered, nor
2 was there documentation of wastage.

3 PATIENT E:

4 46. On July 14, 2005 at 1318 hours, Respondent removed 10 mg of Morphine from the
5 Pyxis. Respondent documented having administered 4 mg of the Morphine; however, there was
6 no documentation of the remaining 6 mg being administered, nor was there documentation of
7 wastage.

8 47. On July 23, 2005 at 1903 hours, Respondent removed 10 mg of Morphine and one
9 tablet of Vicodin from the Pyxis. Respondent documented having administered 4 mg of the
10 Morphine and one tablet of the Vicodin; however, there was no documentation of the remaining 6
11 mg being administered, nor was there documentation of wastage.

12 PATIENT F:

13 48. On July 24, 2005 at 2108 hours, Respondent removed a total of 20 mg of Morphine
14 from the Pyxis. Respondent documented having administered 12 mg of the Morphine; however,
15 there was no documentation of the remaining 8 mg being administered, nor was there
16 documentation of wastage.

17 49. On July 24, 2005 at 2330 hours, Respondent documented on Patient F's medical
18 record that she administered Vicodin; however, there was no record that Respondent removed
19 Vicodin from the Pyxis.

20 PATIENT G:

21 50. On July 29, 2005 at 1931 hours, Respondent removed 100 mcg of Fentanyl from the
22 Pyxis. Respondent failed to document that any of the Fentanyl was either administered or wasted.

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24 FOURTH CAUSE FOR DISCIPLINE

25 (False Entries in Hospital, Patient or Other Records Kaiser San Rafael)

26 51. Respondent is subject to disciplinary action under Code section 2761(a) on the
27 grounds of unprofessional conduct, as defined by Code section 2762(e), in that while on duty as a
28 registered nurse at Kaiser Permanente, San Rafael, California, Respondent falsified, made grossly

1 incorrect, grossly inconsistent, or unintelligible entries in hospital and patient records in the
2 following respects:

3 PATIENT A:

4 52. On September 22, 2005 at 0817 hours, Respondent removed two 100 mcg vials of
5 Fentanyl from the Pyxis. Respondent documented having administered 100 mg of the Fentanyl;
6 however, there was no documentation of the remaining 100 mcg being administered, nor was
7 there documentation of wastage.

8 PATIENT B:

9 53. On September 21, 2005 at 0821 hours, Respondent removed two 100 mcg vials of
10 Fentanyl from the Pyxis. On September 21, 2005 at 0853 hours, Respondent removed three 100
11 mcg vials of Fentanyl from the Pyxis. Respondent documented having administered 275 mg of
12 the Fentanyl; however, there was no documentation of the remaining 225 mcg being
13 administered, nor was there documentation of wastage.

14 PATIENT C:

15 54. On September 21, 2005 at 1022 and 1033 hours, Respondent removed a total of 10
16 mg of Versed from the Pyxis. Respondent documented having administered 8 mg of the Versed;
17 however, there was no documentation of the remaining 2 mg being administered, nor was there
18 documentation of wastage.

19 55. On September 21, 2005 at 1022 and 1034 hours, Respondent removed a total of 400
20 mcg of Fentanyl from the Pyxis. Respondent documented having administered 275 mg of the
21 Fentanyl; however, there was no documentation of the remaining 125 mcg being administered,
22 nor was there documentation of wastage.

23 PATIENT D:

24 56. On September 22, 2005 at 1113 hours, Respondent removed a total of 4 mg of Versed
25 from the Pyxis. Respondent documented having administered 2 mg of the Versed; however, there
26 was no documentation of the remaining 2 mg being administered, nor was there documentation of
27 wastage.

57. On September 22, 2005 at 1114 hours, Respondent removed a total of 200 mcg of Fentanyl from the Pyxis. Respondent documented having administered 75 mg of the Fentanyl; however, there was no documentation of the remaining 125 mcg being administered, nor was there documentation of wastage.

FIFTH CAUSE FOR DISCIPLINE

(Gross Negligence)

58. Respondent is subject to disciplinary action under Code section 2761(a) in that she committed gross negligence between June 11, 2005, and July 29, 2005, at Kaiser Permanente Santa Rosa, California, when she obtained medications either not prescribed or in excess of a physician's order and failed to document either administration or wastage of those medications as alleged above in paragraphs 24 through 50, above.

59. Respondent is subject to disciplinary action under Code section 2761(a) in that she committed gross negligence between September 21, 2005, and September 22, 2005, at Kaiser Permanente San Rafael, California, when she obtained medications either not prescribed or in excess of a physician's order and failed to document either *administration or wastage of those medications as alleged above in paragraphs 51 through 57, above.*

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number RN 391142, issued to Judy Ann Shaffer.

2. Ordering Judy Ann Shaffer to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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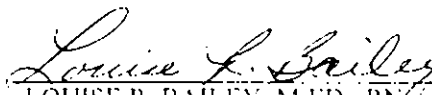
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3. Taking such other and further action as deemed necessary and proper.

DATED: _____

11/25/09



LOUISE R. BAILEY, M.Ed., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SF2009405341